

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 1662 of 2026

[On order dated 24/09/2026 in R/FA/1662/2026]

With

CIVIL APPLICATION (FOR STAY) NO. 1 of 2026

In R/FIRST APPEAL NO. 1662 of 2026

FOR APPROVAL AND SIGNATURE:

**HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL
and
HONOURABLE MR.JUSTICE D.N.RAY**

Approved for Reporting	Yes	No
	✓	

INDUS TOWERS LIMITED

Versus

BILKISHBANU TOFIQHUSSAIN LOKHANDWALA & ANR.

Appearance:

**MR. R.S.SANJANWALA, LD.SR.ADVOCATE WITH MR. KUNAL J.VYAS,
ADVOCATE WITH MS. RHEA SEWAK, ADVOCATE AND MR. YASH MODI,
ADVOCATE FOR GANDHI LAW ASSOCIATES(12275) for the Appellant(s)**

No. 1

MR BOMI H SETHNA(5864) for the Defendant(s) No. 1,2

**CORAM:HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL**

and

HONOURABLE MR.JUSTICE D.N.RAY

Date : 24/09/2026

JUDGMENT

(PER : HONOURABLE MR.JUSTICE D.N.RAY)

Preface

***The legend of Lord Mansfield (William Murray, 1st
Earl of Mansfield, 1705-1793) goes like this :***

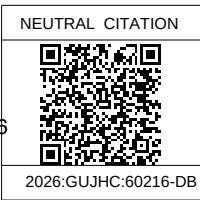
*Sometime in the middle of the 18th century, a
certain General, on deputation to the British Colonies in
the Caribbean, armed with plenipotentiary powers,
asked Lord Mansfield's advice as to how to decide the
disputes between the subjects and the Crown.*

Lord Mansfield's straightforward reply was that the General should apply his head and his heart to the dispute and should, by and large, arrive at a fair decision. However, he advised the General not to assign any reasons. Lord Mansfield reckoned the decision, per se, may or may not be doubted, but the reasons in support thereof were bound to be wrong.

Section 31 (3) of the Arbitration and Conciliation Act, 1996 (for short "the Act, 1996") mandates every Tribunal to provide the reasons in support of the award. The case at hand has reminded us of Lord Mansfield's legend...

1. Heard Mr. R. S. Sanjanwala, learned Senior advocate with Mr. Kunal J. Vyas, learned advocate with Ms. Rhea Sewak, learned advocate with Mr. Yash Modi, learned advocate appearing for the Gandhi Law Associates for the appellant & Mr. Bomi H. Sethna, learned advocate for the respondent.

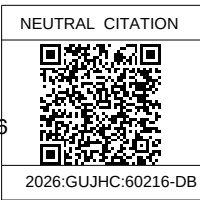
2. The present First Appeal is preferred under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as "**the Act, 1996**"), assailing the judgment and order dated 08.04.2026 passed by the learned Judge, City Civil Court, Ahmedabad, in Civil Misc. Application No. 307 of 2015, whereby the application under Section 34 of the Act, 1996, was partly allowed, the Arbitral Award dated



18.03.2015 was substantially confirmed, and only the award of damages of Rs. 75,000/- was set aside.

3. The appellant, a registered IP-1 telecom infrastructure provider had entered into a Lease Deed dated 16.09.2011 with the respondents, owners of terrace premises admeasuring 450 sq. ft., for installation of a telecom tower, for a 15 year term commencing 27.07.2011 at a monthly rent of Rs. 25,800/-. Clauses 4.9 and 4.16 obligated the respondents to ensure unhindered access, absolving rent liability in case of third-party obstruction, while Clause 9.2 empowered the appellant to terminate the lease without cause upon three months' notice.

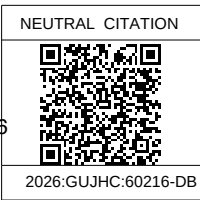
4. It is the case of the appellant that owing to obstruction by neighbouring occupants during installation, the tower could never be rendered operational, and the appellant terminated the lease vide notice dated 19.09.2012. The respondents thereupon invoked arbitration by filing Arbitration Petition No. 72 of 2014, resulting in an award dated 18.03.2015 granting rent from 27.08.2011 till 09.01.2015, future rent till handing over of possession,



damages of Rs. 75,000/-, and interest @ 15% per annum pendente lite and 18% per annum post award.

5. Being aggrieved, the appellant filed Section 34 application being Civil Misc. Application No. 307 of 2015 before the learned Commercial Court, Ahmedabad, wherein vide 08.04.2026, the Section 34 application was partly allowed and only the damages of Rs. 75,000/- was set aside while confirming the remaining award. The Lease Deed was held to have stood terminated under Clause 9.2, three months after the notice dated 19.09.2012. However, the respondent remained entitled to rent/occupation charges as mesne profits until vacant possession was actually handed over. The determination of the exact date of handing over possession was left to the Executing Court to decide.

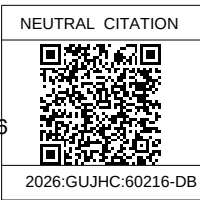
6. Being aggrieved by the impugned judgment and order dated 08.04.2026, the appellant has preferred the present appeal under Section 37 of the Act, 1996, with the prayer to quash and set aside the judgment and order dated 08.04.2026 as well as the Arbitral Award dated 18.03.2015.



7. Mr. R. S. Sanjanwala, learned Senior advocate with Mr. Kunal J. Vyas, learned advocate submitted that the Commercial Court erred in confirming the contractual rent beyond 31.12.2012, despite finding the Lease Deed validly terminated under Clause 9.2 via notice dated 19.09.2012. The judgment was said to be internally inconsistent, having held Clauses 9.1 and 9.2 independent and the lease terminated accordingly, the Court still upheld rent beyond termination by substituting its own reasoning for the Arbitrator's, exceeding even the respondents' pleaded case.

8. Mr. Sanjanwala submitted that having categorically held, in the impugned judgment, that the respondents were not entitled to "rent" under the Lease Agreement after expiry of three months from the termination notice, the learned Court could not have granted the self-same relief under the guise of "mesne profits", a claim never pleaded, argued, or put in issue before the Arbitrator.

9. Mr. Sanjanwala additionally submitted that the claim statement of the original claimants, as extracted in paragraph No. '13' of the impugned judgment, confined itself to three



reliefs; rent from 27.08.2011 to 09.01.2015, rent thereafter till handing over of possession, and damages to the premises with no pleading, issue, evidence or prayer whatsoever touching upon mesne profits or occupation charges. The finding rendered in paragraph No. '17', awarding mesne profits, was accordingly assailed as being wholly dehors the pleadings and contrary to settled legal principles.

10. Thereafter, it was contended that the Arbitrator, having been approached only for contractual rent under the Lease Deed, lacked jurisdiction to award any relief in the nature of mesne profits or occupation charges post-termination in the absence of pleading or issue in that behalf, rendering the Award, to that extent, opposed to the public policy of India.

11. Mr. Sanjanwala referred to the provisions of Section 2 (12) of the Code of Civil Procedure, 1908 (CPC) as well as Order XX Rule 12 of the CPC to contend that the claim awarded by the Tribunal would not fall under the head of "mesne profit", inasmuch as, mesne profit means "profits which the person in wrongful possession of such property actually received or might with ordinary diligence have

received therefrom”. According to Mr. Sanjanwala, there is no pleading or proof of any actual profit which the appellant could be said to have receive by continuing to occupy the property illegally. In support thereof, Mr. Sanjanwala relied upon the following decisions:

1. ***Mohd. Amin and Others v. Vakil Ahmad and Others***, reported in **(1952) 2 SCC 168**;
2. ***Purificacao Fernandes and Another v. Dr. Hugo Vicente De Perpetuo Socorro Andradee Menezes and Others***, reported in **[1985 Mh.L.J.]**;
3. ***Ganapati Madhav Sawant (Dead) through his Lrs. v. Dattur Madhav Sawant***, reported in **(2008) 3 SCC 183**.

Analysis & Findings:-

12. Certain findings of the Tribunal which form the bone of contention between the parties are extracted hereinbelow as the analysis of the same would be material to our inquiry.

“34. However, it is an admitted fact that though rent was to be started from 27.08.2011, not a single paise of rent is paid to the Claimants by the Respondent Company. It has also come in evidence that the equipments or material of whatever construction of tower is made at the Demised Premises are still lying there. This means that the

Respondent Company has occupied the Demised Premises upto this date.

41. However, it is the say of the Claimants that even after termination of the Lease Deed, the Respondent has not removed its equipments from the Demised Premises and the Respondent company is still occupying the property, i.e. the Demised Premises/subject property by not removing their equipments. Therefore, it should be considered that termination of Lease Deed has no effect so far as the liability for paying the rent is concerned. The Claimants have calculated this period, i.e. the period after termination till filing of the claim statement, which comes to 24 months and 9 days as the Claimants have filed the claim statement on 10.01.2015. It is also the say of the Claimants that even during pendency of this proceedings, the equipments already erected/installed by the Respondent company are still lying at the Demised Premises and therefore the Claimants are entitled for the amount of rent as agreed between the parties till vacant possession of the Demised Premises is handed over to the Claimants by the Respondent Company.

44. Calculating this period after the Lease Deed was terminated, it will be 24 months and 9 days. However, the Tribunal should not lose sight of the fact that the rent was to be increased after expiry of every three years. The period of three years will start from 27.08.2011 and will end on 26.08.2014. Thus, upto 26.08.2014, the amount of rent will be the initial amount as decided between the parties, i.e. Rs. 25,800/- per month, and, from 27.08.2014 to 09.01.2015 and onwards, for further three years from 27.08.2014, the rent will be increased by 10%. At present, if we calculate this, we have already calculated the amount of rent upto the period of termination, i.e. upto 31.12.2012, and, therefore, from 01.01.2013 to 26.08.2014, the total period is one year, seven months and 26 days and for this period the amount of rent was to be Rs. 25,800/- per month which will come to Rs. 4,90,200/- for 19 months from January 2013 to July 2014. Further, for the period of 26 days from 01.08.2014 to 26.08.2014, the amount of rent will be Rs. 22,360/- (Rs. 860/- per day x 26 days).

46. It is also asked on behalf of the Claimants that they are entitled for the amount of rent till vacant, peaceful possession of the Demised Premises is handed over to the Claimants by the Respondent Company. In foregoing paragraphs of this Award, this Tribunal has not believed the say of the Respondent company that the Respondent was prevented from removing the equipments from the Demised Premises. Even during the proceedings also, the Respondent has not requested the Tribunal or they have also not issued notice to the Claimants or have not given in writing to the Claimants showing their intention to remove the equipments erected/installed at the Demised Premises and therefore this Tribunal is of the firm view that the Claimants are entitled for rent @ Rs. 28,380/- per month from 10.1.2015 till the vacant, peaceful possession of the Demised Premises is handed over to the Claimants by the Respondent. The second phase of three years is from 27.8.2014 and it will end on 26.8.2017 If peaceful, vacant possession of the Demised Premises is not handed over upto 26.8.2017, the Claimants would be further entitled for the amount of increased rent for the extended period as specified in clause 3.2 of the Lease Deed. This amount payable till the vacant possession is handed over is not certain because the date of handing over vacant, peaceful possession of the Demised Premises by the Respondent is also not certain. Therefore, this Tribunal holds the Claimants entitled for the amount of lease rent as discussed, from 10.1.2015 till the vacant possession of the Demised Premises is handed over to the Claimants. Hence, looking to these facts and discussion, this Tribunal holds that the claimants have successfully proved their entitlement as asked by them and hence Issues No. 2 and 3 are answered in affirmative, whereas the Respondent has failed to prove that they were prevented by the Claimants from removing the equipments installed in the Demised Premises and therefore, Issue No. 8 is decided in negative.

50. It is true that the assessment of the damages to the tune of Rs. 2,02,500/- is not produced on record before this Tribunal. That does not mean that the Tribunal is helpless in

awarding damages because the claim for damages was raised by the Claimants after termination of the Lease Deed. It is also raised in the claim statement. The amount may be different, but simply because the assessment from reliable source is not produced, that does not mean that the Tribunal cannot award damages. It is an accepted position that different formulae can be applied in different circumstances and the question as to whether the damages should be computed by taking recourse to one or the other formula having regard to the facts of particular case, would entirely fall within the domain of the Arbitrator. Sections 55 and 73 of Indian Contract Act do not lay down method or manner as to how or in what manner the computation of damages or compensation has to be made. Thus, the computation depends upon circumstances and methods to compute damages, how the quantum thereof should be determined is a matter which would fall for the decision of the Arbitrator. Thus, the Tribunal can decide the amount of damages, otherwise disallowing of damages only on technical reason, will amount to give benefit to the wrong doer, i.e. who has made the breach of the terms and conditions of the contract. The Tribunal can assess the damages even by guesswork.

52. However, when there is no sufficient material with the Tribunal for assessment of damages caused to the property, the Tribunal can award reasonable amount of damages and for doing this, pure guess work is sufficient, and, considering all the facts, this Tribunal awards an amount of Rs. 75,000/- as damages to the Claimants. Hence, Issue No. 4 is answered accordingly."

60. Thus, the Claimants are entitled to be recovered the following amount from the Respondent Company against each claim:

Sr. No	Nature of claim	Amount Awarded Rs.
1.	On Account of rent:	
	a) For the period from 27.08.2011 to	9,28,800/-



	26.08.2014 (36 months) @ Rs. 25800/- per month: b) For the period from 27.08.2014 to 26.12.2014 (4 months) @ Rs. 28380/- per month c) For the period from 27.12.2014 to 09.01.2015 (4 months) @ Rs. 946/- per day d) For the period from 10.01.2015 till date of actual handing over of vacant possession of the Demised Premises to the Claimants, @Rs. 28380/- per month	1,13,520/- 13,244/- The amount <u>deponents</u> upon the date on which actual possession is handed over to Claimants.
2.	On account of interest: a) For the period from date of cause of action upto 18.03.2015 @ 15% p.a, i.e. pendente lite b) For the period from 19.03.2015 till vacant possession of the Demised Premises is handed over to the Claimants, i.e. from the date of Award till realization of payment/vacant possession of Demised Premises handed over to the Claimants, @ 18% p.a.	
3.	On account of damage	75,000/-
4.	On account of arbitration cost	2,91,400/-

13. The learned Commercial Court while examining the challenge by the appellant under Section 34 of the Act, 1996, has proceeded to sever the award and pass the following order:-

“ORDER

(a) The present CMA No.307/2015, preferred under Section 34 of the Arbitration and Conciliation Act, 1996, stand partly

allowed.

(b) The Award passed by the Learned Arbitral Tribunal in (Arising out from the order passed in Arbitration Petition No.72/2014) dated 18.03.2015, stand modified only on the severability Clause of damages, awarded-by the Award.

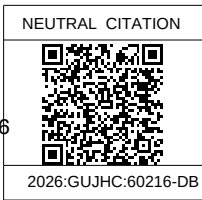
(c) The damages awarded by the Learned Arbitral Tribunal in a tune of Rs. 75,000/- is hereby disallowed.

(d) Rest of the Award passed by the Learned Arbitral Tribunal dated 18.03.2015, stand confirmed.

(e) When the vacant possession of demised premises, is handling over by the original Respondent to the original Claimants, is to be determined by the Executing Court."

14. To our mind, the argument of Mr. Sanjanwala on whether the awarded sum should be towards unpaid rent or towards mesne profits is essentially on semantics. It is an admitted position that because of the appellant continued to occupy the demised lease premises as it did not remove their equipments lying in the rented property, the vacant possession of the rented property having not been handed over to the lessor, the leased property could not be put to due use even after service of the termination notice as per Clause 9.1 of the agreement.

15. Mr.Sanjanwala's arguments that it was upto the lessor to clear the equipments and put his premises in occupation cannot be countenanced. In the instant case, admittedly the



lease was terminated by the lessee-appellant by giving three months notice to the lessor as per Clause 9.1 of the lease agreement. However, the vacant possession of the leased premises was not handed over and the lessee continued to occupy the premises as it failed to remove its equipment installed in the leased premises. The defense set up by the lessee that the lessor did not permit the lessee to remove its equipments and vacate the leased premises after service of the notice for termination of lease as per Clause 9.1 could not be proved before the Arbitral tribunal. As these finding cannot be disputed within the scope of Section 34 and 37 of the Act, 1996, the fact that the lessee did not vacate the premises after the termination notice was served, stood proved in the Arbitral Award and, as such, there was no termination at all. The Arbitral tribunal has rightly concluded that the appellant's/lessee's equipment were still lying at the Demises premises and, therefore, the claimant/lessor are entitled for the amount of rent as agreed between the parties till vacant possession of the Demised/leased premises is handed over to the claimant-lessor by the appellant-lessee. The said finding has not interfered with by the Court under Section 34 on the ground of patent illegality or on any of the permissible

grounds under Section 34 of the Act, 1996.

16. The Court under Section 34 without any proper reasoning or setting aside the aforesaid finding of the Arbitral tribunal, has modified the award by holding that subsequent to service of termination notice dated 09.09.2012 and after completion of the three months period on 31.12.2012, the claimant/lessee is not entitled for rent as per the lease agreement. But, at the same time, they are held entitled for mesne profits, equal to the rent amount or higher than it, because the lessee has not removed the installed equipment, and thereby have not vacated the possession of the demised premises. Thus, while modifying the nature of the claim from the rent agreed upon to mesne profit, the Commercial Court has held that it does not find any illegality in the determination of issues by the learned Arbitrator about occupation of premises by the lessee after serving the termination notice.

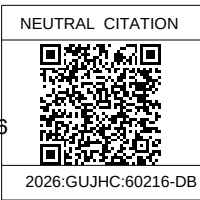
17. The relevant paragraph No.'17' of the judgment of the Commercial Court under Section 34 reads as under :-

"17. It is necessary to refer the fact that once the present Applicant-Indus Tower Limited has served a notice dated 19th September 2012, where by they have terminated the Lease Deed by resorting the Clause 9.2 of the Deed. The Arbitral Tribunal has failed 40 consider the fact that Clause 9.1 and 9.2 are separate clauses, exists independently. Subsequent to the service of Notice dated 9th September 2012 and after completion of the three months period, is on 31 December 2012, Claimants are not entitled for rent as per Lease Agreement, but at the same time they are entitled for means profit, which may be equal the rent amount or higher then it, because the Indus Tower has not bothered to remove the installed equipment, from the premises of the Claimants and thereby they have not vacant the possession of the demised premises, on several occasions, including at the time of filing of the statement of defence and during the proceeding before this forum, the Indus Tower Ltd., has disclosed their intention to remove the installed equipment from the premises, but they have not produced any supporting material, which shows that when they-have-actually-visited the premises for the removal of the equipment they have produced communication, took place between the parties during the pendency of the present petition. Their communication to the Landlord that to please provide them access to the demised premises. By issuing a Letter dated 1" April 2015, the said Letter is acknowledge by the Claimant, the present Respondents in their reply dated 9th May 2015, wherein the Claimants have disclosed the mobile number and submitted that "by giving prior intimation, so that convenience at both the ends be meted, and thereafter you may remove your material regarding which the Claimants have no objection". During the proceeding before this Court, the Opponents original Claimants have filed one process Exhibit:40 wherein, they have disclosed that they are ready to cooperate to the present Applicant Indus Tower Company, for removal of the instrument, presently lying in the premises of the Opponents, so what is a period to be computed for a purpose of deciding the word "When the vacant possession of demised premises, is handling over by the original

Respondent to the original Claimants", is to be interpreted by the Executing Court, by considering the submission as well as evidence produced by the parties. This Court is not under an obligation to decide the end point of time, because this is beyond the scope of Section 34 of the Act. And therefore, this Court does not found any patent illegality, in the determination of Issue No.1 to 3 and Issue No.5 to 9 are concerned."

18. Secondly, the lessor never claimed "damages" within the meaning of Section 55 and 73 of the Indian Contract Act, 1872, but instead had claimed for compensation towards actual physical damage of the leased property. It is only because the Tribunal while being fully justified in awarding the compensation of Rs.75,000/- towards actual physical damage, has in its reasoning, referred to the provisions for claiming "damages" under the Indian Contract Act, 1872, has unwillingly provided ammunition to Mr. Sanjanwala to contend that "damages" under the Contract Act were not claimed and hence could not have been granted.

19. A perusal of item No. '3' under the awarded claims as noted in the column below at paragraph No. '60' of the award (quoted hereinabove) would reflect that the learned Arbitrator has categorically awarded "on account of damage" and **NOT** "damages". It is only because of the reference to Section 55

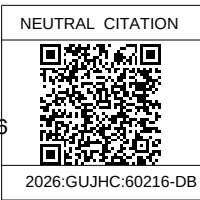


and 73 of the Indian Contract Act, 1872 in paragraph No. '50' of the award, being reasons in support, that the otherwise correct quantification is sought to be clouded by the reasons.

20. To our mind, the test which the Commercial Court under Section 34 should have applied, is not whether there is a legal error in the award but whether the error was of such an egregious nature which would vitiate the award itself, as being opposed to fundamental policy of Indian law.

21. We are also of the opinion that the Tribunal intended to sum of Rs.75,000/- towards actual damage to the building, distinct "damages" under the Indian Contract Act, 1872. However, by erroneously referring to Section 55 and 73 of the Act, has provided the appellant herein with a launchpad to question the award itself as being patently illegal. Therefore, this part of the reasoning of the learned Commercial Court in the judgment under Section 34 is flawed.

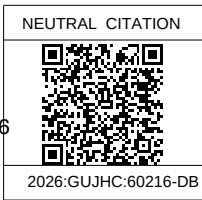
22. We are, thus, of the firm opinion that the doctrine of severability of an arbitral award has been wrongly applied by the learned Commercial Court in severing that part by which



the quantum of actual damage amounting to Rs.75,000/- has come to be deleted from the award by severing the same.

23. However, in absence of any challenge to the same by the claimant, we have limited our inquiry under Section 37 of the Act, 1996 to the claims awarded by the learned Arbitrator for use and occupation of the premises holding that since the lessee was still occupying the leased property/demises premises by not removing their equipments, the termination of lease deed has no effect. The said finding could not have been interfered by the Commercial Court. The judgment and order dated 08.04.2026 passed by the Commercial Court, thus, is suffering from manifest error of law and jurisdiction on the said issue.

24. We are further of the opinion that in the facts and circumstances of the present case, none of the decisions cited by Mr. Sanjanwala are applicable. To our mind, when the lessee being in the possession of the leased property, the direct profit in the hands of the lessee which can be easily quantified in terms of the lease rental which the lessee would have otherwise to pay to the lessor, but did not.



25. With the above, we reached at an irresistible conclusion that the reasoning of the Arbitral Tribunal in paragraph Nos. 41, 44 and 46 of the award, as quoted hereinabove, cannot be faulted. We are, however, of the further opinion that the mere qualitative change in the nature of the claim (mesne profit vis-a-vis rent), the quantum being exactly the same, even if accepted to be an error of law for the sake of arguments, would not constitute either a patent illegality or against the fundamental policy of India law, which would warrant an interference by the Court under Section 34 and much less by us under Section 37 of the Act, 1996.

26. In such circumstances, we find no reason that would impel us to interfere with the ultimate finding in the judgment and order of the learned Commercial Court upholding the award partly for the claims of the lessor by determining Issue Nos.1 to 3 and Issue Nos.5 to 9 for the qualitative change in the nature of the claim from rent to mesne profit, we only provide that the quantum of the claims as awarded by the Arbitral tribunal remaining the same, we need not to interfere either in the order under Section 34 or the award of the tribunal on the claim awarded (mesne profit vis-a-vis rent).

The Arbitral award in respect of the claim having been upheld by the Court under Section 34 of the Act, 1996, no further interference is required. The award dated 18.03.2015 is hereby confirmed, subject to the modification by the Court under Section 34 of severing the claims for actual damages to the tune of Rs.75,000/- awarded by the tribunal. Accordingly, the present appeal is dismissed. Consequently, the connected Civil Application stands disposed of.

27. We may conclude with the observations made by the Hon'ble Apex Court about the scope of inquiry under Section 37 of the Act, 1996 in ***C & C Constructions Ltd. v. IRCON International Ltd.***, reported in ***(2025) 4 SCC 234***, wherein it was stated that:-

*"34. As far as scope of interference in an appeal under Section 37 of the Arbitration Act is concerned, the law is well settled. In **Larsen Air Conditioning & Refrigeration Co. v. Union of India**, (2023) 15 SCC 472, in para 15, this Court held thus:-*

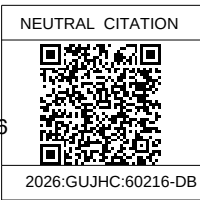
"15. The limited and extremely circumscribed jurisdiction of the court under Section 34 of the Act, permits the court to interfere with an award, sans the grounds of patent illegality i.e. that 'illegality must go to the root of the matter and cannot be of a trivial nature'; and that the Tribunal 'must decide in accordance with the terms of the contract, but if an arbitrator construes a term of the contract in a reasonable manner, it will not mean that the award can

be set aside on this ground’ [Associate Builders v. DDA, (2015) 3 SCC 49]. The other ground would be denial of natural justice. In appeal, Section 37 of the Act grants narrower scope to the appellate court to review the findings in an award, if it has been upheld, or substantially upheld under Section 34.”
(emphasis in original and supplied)

35. In **Konkan Railway Corpn. Ltd. v. Chenab Bridge Project, (2023) 9 SCC 85**, in para 18, this Court held thus :

“18. At the outset, we may state that the jurisdiction of the court under Section 37 of the Act, as clarified by this Court in MMTC Ltd. v. Vedanta Ltd., is akin to the jurisdiction of the court under Section 34 of the Act. “14. As far as interference with an order made under Section 34, as per Section 37, is concerned, it cannot be disputed that such interference under Section 37 cannot travel beyond the restrictions laid down under Section 34. In other words, the court cannot undertake an independent assessment of the merits of the award, and must only ascertain that the exercise of power by the court under Section 34 has not exceeded the scope of the provision.”] Scope of interference by a court in an appeal under Section 37 of the Act, in examining an order, setting aside or refusing to set aside an award, is restricted and subject to the same grounds as the challenge under Section 34 of the Act.”

28. Before parting with this order, in the facts and circumstances of the case, we find that Section 31A of the Act, 1996 gives this Court the discretion to determine whether the imposition of cost on any party is either appropriate, and if so, to determine the quantum thereof. We are of the considered opinion that in view of the appellant having dragged the respondent herein to the present proceedings before us, it



should be saddled with costs. Accordingly, in our discretion, we hereby award a sum of Rs.1,50,000/- as costs to be payable in the following manner: Rs.75,000/- to be paid to the respondent; and, Rs.75,000/- to be deposited in the Gujarat State Legal Service Authority within a period of four weeks from the date of receipt of copy of this order. The amount so deposited shall be transmitted to the Gujarat State Legal Services Authority, which shall be spent in the welfare projects for women and children in the State of Gujarat.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

BINA SHAH

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Appearance:

GANDHI LAW ASSOCIATES(12275) for the Appellant(s) No. 1

MR BOMI H SETHNA(5864) for the Defendant(s) No. 1,2

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CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL

and

HONOURABLE MR. JUSTICE D.N. RAY

Date : 24/09/2026

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE
MRS. JUSTICE SUNITA AGARWAL)

Heard Mr.R.S. Sanjanwala, the learned Senior Counsel assisted by Mr.Kunal J. Vyas, Ms.Rhea J. Sevak and Mr.Yash Modi, the learned advocate for the appellant.

Dismissed. Reasoned Judgment to follow.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

SAHIL S. RANGER